

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

**MARILYN MARGULIS, individually)
and on behalf of all others similarly)
situated,)**

Plaintiff,)

vs.)

Case No. 4:14-CV-1462 SNLJ

GENERATION LIFE INS. CO., et al.,)

Defendants.)

MEMORANDUM AND ORDER

Plaintiff brought this action on behalf of herself and others similarly situated against the defendants, Generation Life Insurance Company, Spring Venture Group, LLC, and John Does 1-10, for alleged violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. (“TCPA”). The matter was removed from state court on August 22, 2014. The Court granted the defendants’ motion to dismiss but permitted plaintiff leave to amend her complaint (#20). Plaintiff amended her complaint (#21) and on the same day filed a motion to certify class (#23) as well as a motion to delay ruling on that motion (#24). Defendants moved to deny plaintiff’s motion for class certification without prejudice (#26).

Plaintiff had also filed a motion to certify class with her original state court complaint. This Court denied that motion without prejudice to refile following the

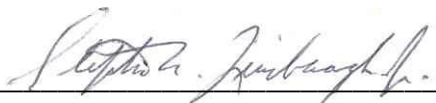
issuance of the Case Management Order in this case (#12). Plaintiff explains that she filed the motions to certify early to protect against individual settlement offers that potentially could moot her claim for class-wide relief. *See March v. Medcredit*, No. 4:13cv1210 TIA, 2013 WL 6265070 (E.D. Mo. Dec. 4, 2013). Although this Court in *March* advised that “in future cases, putative class action plaintiffs would be wise to immediately file such motions to protect the class from similar motions to dismiss based on offers of judgment,” this Court also stated that defendants “should not be able to use offers of judgment [under Federal Rule of Civil Procedure 68] to thwart class actions.” *Id.* at *3. As such, the *March* Court struck the defendant’s offer of judgment and denied defendant’s motion to dismiss. *Id.* at *4. Rather than permit plaintiff’s motion to certify to pend indefinitely, this Court will deny the motion to certify without prejudice to refile at the appropriate time. In the event that offers of judgment similar to those in *March* are made, this Court will entertain a similar motion to strike.

Accordingly,

IT IS HEREBY ORDERED that plaintiff’s motion to certify class (#23) and motion to delay ruling on that motion (#24) are **DENIED** without prejudice.

IT IS FURTHER ORDERED that defendant’s motion to deny plaintiff’s motion for class certification without prejudice (#26) is **GRANTED**.

Dated this 18th day of August, 2015.



STEPHEN N. LIMBAUGH, Jr.
UNITED STATES DISTRICT JUDGE